

IN THE HIGH COURT OF JHARKHAND AT RANCHI

W.P.(PIL) No.1877 of 2021

Md. Mumtaz Ansari

... .. Petitioner

Versus

Union of India through its Secretary and Ors.

... Respondents

CORAM : **HON'BLE THE CHIEF JUSTICE**
 HON'BLE MR. JUSTICE SUJIT NARAYAN PRASAD

For the Petitioner : Md. Shadab Ansari, Advocate
For the Resp.-State : Mr. Rajiv Ranjan, Advocate General
 Mr. Piyush Chitresh, AC to AG
For the Resp.-UOI : Mr. Rajiv Sinha, A.S.G.I.

ORAL ORDER

04/Dated 03rd June, 2021

1. The matter has been taken up through video conferencing.
2. The instant writ petition has been filed by way of *pro bono publico* praying therein for following reliefs:

“1(i). Direction upon the Respondent/s concerned to bring the life saving Covid-19 Vaccines (Covishield, Covaxin, etc.) under price control by invoking Section 3 of Essential Commodities Act, 2005 and to make available these Life saving drugs at the rate to Rs.150/- to all.

(ii) Direction upon the Respondent/s concerned to bring the Medical Devices like Oxygen Concentrator, Pulse Oximetre, Ventilator Machine etc under price control, by invoking Section 3 of Essential Commodities Act, 1955 and National Disaster Management Act, 2005.”

3. Mr. Rajiv Sinha, learned A.S.G.I. appearing for the Central Government has submitted that so far as the prayer No.1(i) is

concerned, the Hon'ble Apex Court is in the *seisin* of the matter in *suo moto* W.P.(PIL) No.03 of 2021.

4. Upon this, learned counsel appearing for the petitioner has confined his prayer only with respect to the relief sought for in prayer No.1(ii).
5. With regard thereto, learned counsel for the petitioner submits that the Central Government came out with a notification on 11.02.2020 in pursuance of sub-clause (iv) of Clause-B of Section of 3 of The Drugs and Cosmetics Act, 1940 declaring the devices including an instrument, apparatus, appliances, implant, material or other articles whether used alone or in combination using a software or accessories intended by its manufacturer to be used specially for human beings or animals which does not achieve the primary intended act in human beings or animals by any pharmacological, immunological or metabolic means.
6. In continuation to the aforesaid notification, the Central Government came out with an office memorandum on 29.06.2020 for the purpose of monitoring the price movements of critical medical equipment like (i) Pulse Oximetre and; (ii) Oxygen Concentrators, which have been including under paragraph-29 of the DPCO.
7. The copies of the notification dated 11.02.2020 and office memorandum dated 29.06.2020 have been brought on record through e-mail, the same have been taken on record.

8. Learned ASGI has sought for a week's time to seek instruction in the matter.
9. Accordingly, let this matter be posted on 17.06.2021 in order to apprise this Court by way of an affidavit about the action taken by the competent authority of the Central Government in pursuance of the notification dated 11.02.2020 and office memorandum dated 29.06.2020.

(Dr. Ravi Ranjan, C.J.)

(Sujit Narayan Prasad, J.)

Saurabh